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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/811,851

03/30/2004

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EXAMINER

HECKERT, JASON MARK

ART UNIT

PAPER NUMBER

1792

MAIL DATE

DELIVERY MODE

02/25/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/811,851	Applicant(s) KIM ET AL.	
	Examiner JASON HECKERT	Art Unit 1792	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 1/8/09.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 16-20, 24-28 is/are pending in the application.
- 4a) Of the above claim(s) 25-28 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 16-20, 24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 1/8/09 has been entered.

Election/Restrictions

2. Newly submitted claims 25-28 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: The original presented claims are classified in class 68 subclass 12.01. The new claims would be classified in class 8 subclass 158. Furthermore, the original claims can practice materially different method other than that of claims 25-28, such as washing clothes without recirculating fluid, or without simultaneously operating both the pump and motor.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 25-28 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

3.

Response to Arguments

4. Due to the applicant's amendments to the claims, the previous rejections are rendered moot. Newly discovered prior art teaches the limitations of the currently amended claims.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claim 16-18, 24 rejected under 35 U.S.C. 102(b) as being anticipated by Euler et al. (Euler). Euler discloses a washing machine comprising a water tub 34, a rotary tub 35 with a horizontal access, and a pumping unit 38 that pumps water from a lower portion of the washing tub into the rotary tub. The device includes control means (col. 2 lines 60-65). The control means is capable of carrying out the method disclosed in Euler's figure 4, wherein detergent solution is recirculated to the tumbling wash load via the pump (step 508). Euler additionally teaches circulation piping that provides a conduit for water to be pumped from a first end located at the bottom of the water tub to a second end located at an inlet of the rotary tub (see figure 3). Spray nozzle 51 is disposed at the second end. Euler also discloses a liquid level sensor 140, which is capable of operating when the pumping unit and motor are stopped. The examiner finds step 504 to anticipate the user having access to the control scheme through an input device (col. 5 lines 15-16). The control scheme includes operation of the pump.

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Furthermore, claim 18 is regarded as intended use. The manner in which an apparatus operates is not germane to the issue of patentability of the apparatus itself. *Ex parte Wikdahl* 10 USPQ 2d 1546, 1548 (BPAI 1989); *Ex parte McCullough* 7 USPQ 2d 1889, 1891 (BPAI 1988); *In re Finsterwalder* 168 USPQ 530 (CCPA 1971); *In re Casey* 152 USPQ 235, 238 (CCPA 1967). Furthermore, apparatus claims cover what a device is, not what a device does. *Hewlett-Packard Co. v. Bausch & Lomb Inc.* 15 USPQ 2d 1525 (Fed. Cir. 1990); *Demaco Corp. v. F. Von Langsdorf Licensing Ltd.* 7 USPQ 2d 1222, 1224-1225 (Fed. Cir. 1988). The device of Euler discloses the structures of the apparatus, and is believed to be able of operating in the same manner.

Claim Rejections - 35 USC § 103

7. Claims 19-20 rejected under 35 U.S.C. 103(a) as being unpatentable over Euler in view of Kim. Euler teaches taking fabrics into account when washing. The duration of the tumbling/recirculation steps are factors that are controlled in relation to fabric type. (col. 8 lines 25-30). However, he does not specifically state that the input device includes buttons for different fabrics, although this is common in the art. Kim discloses a method for controlling a washing machine according to laundry characteristics, such as those based on type and fabric. Disclosed is a key input 10 with a set of keys for inputting material of the laundry. It would have been obvious at the time of the invention to modify Kwon and include a key input device that sets washing courses according to material of the load, as disclosed by Kim, in order to control the washing machine. Furthermore claim 20 is regarded as intended use.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
9. US Patent 6,167,733 to Lee. Lee discloses recirculating wash water in a horizontal drum washing machine.
10. US Patent 6,981,395 to Ryu et al. Ryu discloses recirculating wash water in a horizontal drum washing machine.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JASON HECKERT whose telephone number is (571)272-2702. The examiner can normally be reached on Mon. to Friday, 9:00 - 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Barr can be reached on (571)272-1414. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/Michael Barr/
Supervisory Patent Examiner, Art
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JMH